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Department of Defense

DIRECTIVE

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695-8355
March 16, 1987
NUMBER 3100.5

USD(A)

SUBJECT: Department of Defense Offshore Military Activities Program

- References:
- (a) DoD Directive 3100.5, subject as above, March 22, 1979 (hereby canceled)
 - (b) Marine Resources and Engineering Development Act of 1966, 33 U.S.C. 1101 et seq.
 - (c) Submerged Lands Act, 43 U.S.C. 1301 et seq.
 - (d) through (g), see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update policies and procedures for the use of offshore areas by the Department of Defense. It shall serve as the basis for a comprehensive Offshore Military Activities Program.

B. APPLICABILITY AND SCOPE

This Directive:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Organization of the Joint Chiefs of Staff (OJCS), and the Defense Agencies (hereafter referred to collectively as "DoD Components").

2. Concerns the use of offshore areas for military purposes. It does not limit the responsibilities of the Secretary of the Navy assigned under reference (b).

C. DEFINITIONS

1. Offshore Areas. The submerged land areas defined in references (c) and (d) and the adjacent waters affected by the use of those submerged lands.

2. Offshore Military Activities Program. The program established to implement DoD policies and procedures for those activities, operations, and installations that require an offshore environment and that may impact on offshore areas.

3. Outer Continental Shelf. All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in Section 2 of reference (c), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

4. State-owned Offshore Submerged Lands. Coastal portions of lands beneath navigable waters, as defined in Section 2 of the Submerged Lands Act (reference (c)).

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D. POLICY

1. It is DoD policy to support the principle that lands composing the Outer Continental Shelf and state-owned offshore areas shall be used in the best interest of the United States. Therefore, it is DoD policy for the use of offshore areas to be shared with nonmilitary interests whenever they can be accommodated.

2. The Secretaries of Defense and the Interior have agreed on procedures for resolving conflicts over joint use of offshore areas for military and mineral exploration or developmental purposes. (See enclosure 2.) In carrying out negotiations with elements of the Department of the Interior (DoI), the Department of Defense shall be guided by this agreement when appropriate.

3. If a coastal state determines that the mineral potential of offshore areas being used or proposed to be used for military purposes must be explored or developed, DoD shall endeavor to accommodate joint military and commercial use of those areas. If compatible joint use is not economically or militarily feasible, DoD shall seek agreement with the coastal state to exclude conflict areas from its leasing program.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Acquisition and Logistics) (ASD(A&L)) shall maintain a comprehensive program for the military use of the offshore environment and provide related direction and policy to DoD Components.

2. The Secretary of the Army shall provide notices to the ASD(A&L), to affected military installations and activities, and to the Director of the Defense Mapping Agency Hydrographic/Topographic Center of potential obstructions and hazards to navigation as stated in the Rivers and Harbors Appropriation Act (reference (e)), of proposed permits for obstructions to be located on the Outer Continental Shelf under reference (d), and of proposed permits for artificial reefs under the National Fishing Enhancement Act of 1984 (reference (f)) to ensure compatibility with the Offshore Military Activities Program.

3. The Secretary of the Navy shall:

a. Act as DoD Executive Agent for outer continental shelf matters and carry out responsibilities assigned to the Executive Agent in the Agreement (enclosure 2).

b. Conduct continuing liaison with DoI, appropriate coastal states, and the ASD(A&L) to ensure compatibility between the DoD Offshore Military Activities Program and the related plans and programs of DoI and coastal states.

c. Inform concerned DoD Components of new developments in the DoI's, states', and industry's mineral leasing plans that may affect present or potential military interests in offshore areas.

d. Represent the Department of Defense on the Secretary of the Interior's Outer Continental Shelf Advisory Board.

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4. The Secretary of the Air Force shall, for those offshore areas under his control, conduct continuing liaison with the DoI and coastal states and enter into agreements necessary to ensure compatibility between military activities and relevant plans and programs of the DoI and coastal states.

5. Heads of DoD Components shall:

a. Review proposed DoI's and states' mineral leasing plans and inform the Executive Agent of proposed activities that could be incompatible with military missions. When joint use is feasible, the Heads shall recommend conditions and stipulations that should be imposed in leases to ensure the integrity of military missions and otherwise protect the interests of the United States against claims arising out of damage to property or personal injury.

b. Establish and maintain lines of communication and coordination to ensure that the ASD(A&L) and the Executive Agent are fully aware of plans and programs involving offshore areas.

c. Review notices referred to in subsection E.2., above, and notify the Army Chief of Engineers if proposed actions are incompatible with offshore military activities.


d. Inform the Army Chief of Engineers and the Executive Agent of any significant change in the status of offshore ranges, restricted areas, or operating areas.

e. Comply with the provisions of the Coastal Zone Management Act (reference (g)).

f. Conduct other activities related to offshore areas as requested by the ASD(A&L).

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Acquisition and Logistics) within 150 days.


William H. Taft, IV
Deputy Secretary of Defense

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Enclosures - 2

1. References
2. Memorandum of Agreement Between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf

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REFERENCES, continued

- (d) Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended
- (e) Rivers and Harbors Appropriation Act of 1899, 33 U.S.C. 401 et seq.
- (f) National Fishing Enhancement Act of 1984, 33 U.S.C. 2101 et seq.
- (g) Coastal Zone Management Act, 16 U.S.C. 1456 et seq., as amended

MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF DEFENSE
AND THE DEPARTMENT OF THE INTERIOR ON MUTUAL CONCERNS ON
THE OUTER CONTINENTAL SHELF

I. Declaration of Intent. We, the Secretary of Defense and the Secretary of the Interior, hereby agree to establish procedures for joint use of the Outer Continental Shelf (OCS). The Department of Defense (DoD) and Department of the Interior (DoI) fully support the national goal of exploration and development of our nation's offshore oil and gas resources. The DoD recognizes that the OCS leasing program of the Department of the Interior is an integral part of the nation's energy security program to develop domestic oil and gas resources and thus is important to national defense. The Department of the Interior fully supports the requirement for DoD to use the OCS for the national defense/security and to ensure that our armed forces achieve and maintain an optimum state of readiness. We acknowledge that from time to time and from place to place the requirements for mineral exploration/development and defense related activities may conflict. In these cases, we shall reach mutually acceptable solutions to the issues raised by these conflicting requirements, in accordance with the principles and procedures established by this memorandum.

II. Procedures. Our departments agree to follow the steps and the schedule listed below:

A. The Call for Information on a proposed planning area will initiate DoD participation in a particular sale cycle. At the time the Call is issued, separate notification will be made to the DoD Executive Agent for OCS matters and will include appropriate charts, coordinates defining boundaries of the proposed area, and other data deemed pertinent to DoD analysis of the area. The DoD Executive Agent will be provided with a list of blocks and appropriate maps constituting the offering proposal identified at the time of Area Identification.

B. Within one month following Area Identification, DoD will submit a statement, along with supporting rationale, on the proposed offering which defines areas it believes require deferral from the offering or military stipulations for joint use. DoI will respond within one month after the DoD submission with agreement to accommodate DoD position or with alternative proposals and supporting rationale.

C. The Director of the Minerals Management Service (on behalf of DoI) and the DoD Executive Agent (on behalf of DoD) shall meet within the ensuing four months to approve agreements reached under (B) above and to resolve any remaining conflicts prior to the proposed Notice of Offering.

D. Issues still in conflict will be resolved by the undersigned no later than 30 days after publication of the Proposed Notice of Offering.

E. Additionally, the procedures of this memorandum will be used to resolve any conflicts that exist in lease offerings presently in the planning process.

III. Areas on the OCS requiring deferral from lease offerings. Our departments agree that, balanced against the geologic potential of an area, certain defense-related activities on the OCS may be irreconcilable with mineral exploration/development and will, under the procedures established above, be deferred from

the pending lease offering. These activities are defined under this agreement as those which must take place in a particular area of the OCS due to their relation to fixed monitoring or control stations which cannot be moved except at great expense and compromise of their mission; those which relate to sensitive operations of a classified nature; and those which pose a direct danger to mineral exploration/development structures and/or personnel. More particularly, in selected instances, these may include but are not limited to:

A. Research, development, testing and evaluation (RDT&E) ranges involving hazardous weapons, which encompass but are not limited to missiles activated by radar reflectivity or heat or errant missiles whose onboard sensors seek targets of opportunity.

B. Intense operations by air, surface, or subsurface units whose activities are hazardous to non-DoD structures, equipment, personnel and which if forced to take place in close proximity to such structures would also become hazardous to DoD ships and aircraft.

C. Certain classified activities which DoD will disclose to appropriately-cleared DoI personnel.

D. Submarine transit lanes.

IV. Areas on the OCS requiring lease stipulations and lessee advisories. Our departments agree that in certain specific instances, conflicts on the OCS can be mitigated by attaching general or site-specific stipulations as a part of lease agreements or including lessee advisories. These include but are not limited to standard military stipulations for military warning areas (hold harmless, electromagnetic emission and notice of operations) and special stipulations for shelter and evacuation, time-sharing provisions, and provisions for specialized underwater research activities.

V. Locus of discussions. All policy discussions and final agreements under this memorandum will be conducted in Washington, D.C., and environs, and all comment on their status or resolution will be handled by our two departments. Any public comments of a policy nature in conjunction with this agreement by officers or employees of our departments elsewhere are unauthorized.

VI. Duration of agreements under this memorandum. All deferrals, stipulations, and lessee advisories for a given area of the OCS will remain in effect for subsequent lease offerings in the same area unless altered by our two departments under the procedures outlined in this memorandum.


Secretary of Defense,

20 JUL 1983


Secretary of Interior

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